

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Chapter 7

DANIEL GALLAGHER

Case No.: 8-23-70994-las

Debtor.

.....X

**ORDER AUTHORIZING SALE OF REAL PROPERTY BY PUBLIC AUCTION
FREE AND CLEAR OF ALL LIENS, CLAIMS, INTERESTS AND
ENCUMBRANCES**

UPON the Motion dated June 8, 2023 (“Motion”) of Robert L. Pryor, Esq., Chapter 7 trustee (“Trustee”) of the bankruptcy estate (“Estate”) of Daniel Gallagher (“Debtor”), by his attorneys, Pryor & Mandelup, L.L.P., for the entry of an order pursuant to 11 U.S.C. §363(b) (f) & (h), Rule 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and E.D.N.Y. LBR 6004-1, (a) authorizing the Trustee to sell the Estate’s interest in and to the real property located at 1640 Sterling Road, Cutchogue, New York 11935 (the “Real Property”) by public auction by the Estate’s retained auctioneer, “as is” and “where is”, “with all faults” free and clear of liens, claims, interests and encumbrances, with such liens, claims, interests and encumbrances (“Liens”, if any, to attach, in such priority and validity as they existed on the date of the filing of Debtor’s Petition, March 23, 2023, (the “Petition Date”) and upon the appearances by Richard F. Artura, Esq., Daniel Gallagher, Debtor Robert Pryor, Trustee and upon the stipulation and Order between the Trustee and Jennifer Gallagher; and after due deliberation is hereby

ORDERED, that pursuant to 11 U.S.C. §363(b) (f) & (h), the Trustee is authorized to sell the Estate’s interest and the interest of Jennifer Gallagher in the Real Property, by public auction to be conducted by the retained auctioneer, Maltz Auctions, Inc., free and clear of any and all liens, claims , encumbrances and interests with such liens, claims and interests to attach to the Net

Proceeds in such priority, validity, and extent as they existed on the “Petition Date”; and it is further

ORDERED, that the Terms and Conditions (the “Terms and Conditions”) of sale are hereby approved and all be in the form and substance substantially similar to what which is annexed to the Motion and annexed hereto as Exhibit “A” and that the Real Property is to be sold “AS IS”, “WHERE IS” “WITH ALL FAULTS”, without any representations, covenants, guarantees or warranties of any kind or nature whatsoever and subject to, among other things, (a) any state of facts that an accurate survey may show; (b) any covenants, restrictions, and easement of record; (c) any state of facts a physical inspection may show; (d) any building or zoning ordinances or other applicable municipal regulations and violations thereof; (e) all occupancies, if any, as may exist or encumber the Property or any portion(s) thereof; and (f) environmental conditions; and it is further

ORDERED, that the Trustee is hereby authorized to conduct the public auction at a time and place chosen by the auctioneer; and it is further

ORDERED, that the successful bidder may be entitled to, and be granted, the protections afforded by section 363(m) of the Bankruptcy Code with respect to the Real Property; and it is further

ORDERED, that the Trustee is hereby authorized and empowered to take those steps necessary to sell the Real Property described herein to the successful bidder free and clear of all liens, claims, encumbrances and/or other interests with such liens, claims and/or other interests to attach to the proceeds of sale; and it is further

ORDERED, that the Trustee shall serve a copy of this Order upon the Debtor, the Debtor’s Counsel, all creditors, any party having filed a notice of appearance and demand for service in this case, parties in interest, by not later than five (5) days after the date of entry of this Order, and shall file an affidavit of service attesting to service of the Order; and it is further

ORDERED, that unless consented otherwise, all liens, claims, interests and encumbrances shall, to the extent of their validity and in their order of priority, attach to the net proceeds of sale; and it is further

ORDERED, that the Clerk of Suffolk County, or the appropriate government office, is hereby directed to accept all documents required to record the transfer of the Property; and it is further

ORDERED, that no funds, other than customary closing expenses and costs, including auctioneer fees pursuant to LBR 6005-1(b) be paid at the closing; and it is further.

ORDERED, that the proceeds of the sale are to be held by the Trustee in a segregated account; and it is further

ORDERED, that pursuant to number “21.” of the Terms and Conditions, upon conclusion of the Sale, the Trustee shall promptly file a motion to be served on all creditors and parties in interest, seeking approval of the successful bid or bids and outlining the proposed benefits to the bankruptcy estate; and it is further

ORDERED that upon conclusion of the Sale, the Trustee shall promptly file a separate motion to be served on all creditors and parties in interest, seeking approval for disbursement of the net sale proceeds pursuant to 11 U.S.C. §507, 11 U.S.C. §724, 11 U.S.C. §522, 11 U.S.C. §726, 11 U.S.C. § 326 and any other section the court or the trustee deems appropriate; , and it is further

ORDERED that the stipulation and Order between the Trustee and Jennifer Gallagher will have no effect on the Debtors contemplated Objection to the filed Claim of Jennifer Gallagher; and it is further

ORDERED, that the Court shall retain jurisdiction to resolve any disputes arising or related to this Order, and to interpret, implement and enforce the provisions of this Order.